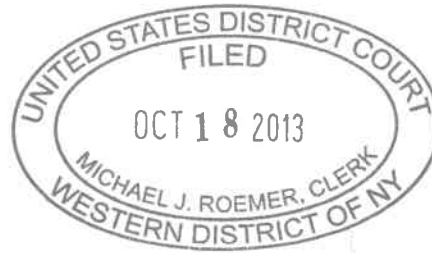


UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK



-PS-O-

JEROME THOMPSON,

Plaintiff,

-v-

DECISION AND ORDER
12-CV-0475A


SUPERINTENDENT BRADT, et al.,
CAPTAIN ROBINSON, Attica Corr. Fac.,
SGT. R. MITCHELL, Attica Corr. Fac.,
M.D. CARL J. KOENIGSMANN, Deputy
Comm. Chief Medical Officer,
C.O. TOMPOROWSKI, C.O. BOSWORTH,
C.O. MS K. SHEARING, C.O. K. MORRIS,
C.O. M. MASOCCO, C.O. MORDACZ,
MEDICAL STAFF, DOCTOR GAFT, RN HAWLEY,

Defendants.

On August 2, 2013, the Court directed the Clerk of the Court to cause the U.S. Marshals Service to serve the summons and amended complaint upon the remaining defendants (Docket No. 14). Summons were issued on September 5, 2013, and Acknowledgments of Receipt of Service by Mail, see N.Y.C.P.L.R. § 312-a(b), have been returned on behalf of all remaining defendants except C.O. K. Shearing. The Marshals' Service has advised the Clerk's Office that it did not receive a summons for Shearing initially and therefore she was not served by mail pursuant to N.Y.C.P.L.R. § 312-a.

Accordingly, the Clerk of the Court is directed to cause the Marshals Service to serve the summons and amended complaint upon Shearing at the Attica Correctional Facility forthwith without plaintiff's payment therefor, unpaid fees to be recoverable if this action terminates by monetary award in plaintiff's favor.¹ The Clerk of the Court shall prepare the necessary summons and U.S. Marshal Process Receipt and Return of Service Form (USM-285) for service upon Shearing.

IT IS SO ORDERED.



HONORABLE RICHARD J. ARCARA
DISTRICT JUDGE
UNITED STATES DISTRICT COURT

Dated: Oct. 17, 2013

¹Pursuant to a Standing Order of Court, filed September 28, 2012, a defendant will have 60 days to file and serve an answer or other responsive pleading, see Fed.R.Civ.P. 12(a)-(b), if the defendant and/or the defendant's agent has returned an Acknowledgment of Receipt of Service by Mail Form within 30 days of receipt of the summons and complaint by mail pursuant to N.Y.C.P.L.R. § 312-a.